

In the United States Court of Federal Claims

No. 20-704

Filed: February 11, 2021

PD LIQUIDATING TRUST, *successor*
in interest to PAULA DOUGLASS,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

ORDER DISMISSING CASE

On January 12, 2021, plaintiff filed its Response to the Court's September 10, 2021 Scheduling Order, ninety-one days out of time. *See* Plaintiff's Response to Scheduling Order, ECF No. 9. In its Response, plaintiff stated that "they [sic] do not seek to show cause that their [sic] claims are distinguishable from the claims adjudicated by the Court's Opinion and Order granting both Defendant's Motion to Dismiss and Defendant's Cross-Motion for Summary Judgment." *Id.* at 1. Plaintiff further states that it "acknowledges that this case is subject to disposition on the same basis." *Id.* As such, this case is subject to the following disposition:

Though the Court is sympathetic to the losses plaintiffs suffered as a result of Hurricane Harvey, the Court cannot find the government liable or find it responsible for imperfect flood control of waters created by an Act of God. For the reasons set forth above, defendant's MOTION to Dismiss is hereby GRANTED pursuant to RCFC 12(b)(6) for failure to state a claim upon which relief could be granted. Defendant's CROSS-MOTION for Summary Judgment is GRANTED. Plaintiffs' CROSS-MOTION for Summary Judgment is DENIED.

In re Downstream Addicks & Barker (Tex.) Flood-Control Reservoirs, 147 Fed. Cl. 566, 583–84 (2020) (emphasis omitted). Accordingly, plaintiff's case is hereby **DISMISSED**. The Clerk of Court is directed to enter judgment consistent with the above.

IT IS SO ORDERED.

s/ Loren A. Smith

Loren A. Smith,
Senior Judge